Applicant : Inchingolo et al.
Serial No. : 10/796,612
Filed : March 8, 2004
Page : 8 of 13

Attorney's Docket No.: 07470-072001

REMARKS

Substance of Interview

Applicant's representative Elliott Mason (Reg. No. 56,569) thanks the Examiner for the telephone interview on June 26, 2008. In accordance with MPEP Section 713.04, the substance of the interview is included herein. No exhibits were shown.

The 35 U.S.C. 101 rejection of claim 8 was discussed. No agreement was reached regarding this rejection.

The 35 U.S.C. 112 and 103 rejections of claim 1 were discussed. Tentative agreement was reached that the present amendments may overcome at least the 35 U.S.C. 112 rejections.

The 35 U.S.C. 103 rejections of claims 4 and 26 were discussed. Applicant's representative asked questions (submitted in advance in writing) in order to obtain clarification of the proposed reasoning that a person of ordinary skill in the art would have gone through to arrive at the claimed subject matter. The Examiner indicated that he would reconsider whether or not these rejections should be maintained.

35 U.S.C. 101 Rejections

Claims 8-12, and 19-24 stand rejected under 35 U.S.C. 101 as directed to non-statutory subject matter.

Claim 8

In the interview the Examiner referred to MPEP 2106.01 that describes that "'functional descriptive material' consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of 'data structure' is 'a physical or logical relationship among data elements, designed to support specific data manipulation functions.'" Applicant submits that a physical or logical relationship among data elements, designed to support specific data manipulation functions is apparent at least from the "associations of task elements to attachment locations [that] specify an ordering constraint on tasks associated with the task elements to define an order in which the tasks are to be executed."

Claim 19

Applicant submits that claim 19 is directed to statutory subject matter at least because "an element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof" (35 U.S.C. 112 paragraph six), and such corresponding structure can be found, for example, at least in paragraphs 36 and 37.

In the previous reply, Applicant asserted that as long as such corresponding structure is described in the specification, there is no obligation to amend the claim to explicitly exclude equivalents of that structure which would render the claim non-statutory subject matter. Applicant also requested that if the Examiner believes that such an obligation does exist, the Examiner provide a basis for such belief.

In the present Office Action, the Examiner states that "corresponding 'structure' in the disclosure is not automatically and inherently limited to hardware-inclusive embodiments. It is entirely possible for the corresponding disclosed 'means' to cover an embodiment of software alone." However, the Examiner did not provide any basis for this statement or the requirement that the Applicant amend the claim to explicitly exclude equivalents of the structure which would render the claim non-statutory subject matter. Applicant respectfully repeats the request for a basis for such a requirement, to provide Applicant an opportunity to respond appropriately.

35 U.S.C. 112 Rejections

Claims 1 and 3 – 32 stand rejected under 35 U.S.C. 112, second paragraph, as indefinite. While Applicant does not agree that the previously pending claims were indefinite, to advance prosecution, Applicant has amended claims 1, 8, 13, 19, and 25.

Prior art Rejections

Claims 1 and 3-32 stand rejected under 35 U.S.C. 103(a) as unpatentable over Bayer (U.S. 5,202,987) in view of Kavoori (U.S. 7,039,915).

Independent claims 1, 8, 13, and 19

Applicant submits that no proper combination of Bayer and Kavoori teaches or suggests at least that "couplings of task elements to attachment locations on the resource element specify an execution ordering constraint on the tasks associated with the task elements to define an order in which the tasks are to be executed," as recited by each of amended claims 1,13, and 19, or that "associations of task elements to attachment locations specify an execution ordering constraint on tasks associated with the task elements to define an order in which the tasks are to be executed," as recited by amended claim 8.

On page 5 of the Office Action, the Examiner acknowledges that "Bayer does not teach a resource element having a plurality of attachment locations, and linking elements coupling the task elements to the resource element at the plurality of attachment locations, wherein couplings of task elements to attachment locations on the resource element specify an execution ordering constraint on the tasks associated with the task elements."

The Examiner goes on to say that "Kavoori teaches scheduling the allocation of hardware resources to allow for reuse (col 6 lines 46-49 and col 9 lines 53-59). Kavoori teaches that use of resources is serial in nature and each process must sequentially access the resource (col 10 lines 6-9). Kavoori further illustrates an embodiment of his invention using Figure 1C. … It would have been obvious to one of ordinary skill in the art, to modify Bayer's task graph to incorporate resources and indicating the scheduling of such resources using a timeline such as indicated by Kavoori. One would be motivated by the desire to indicate the scheduling of resources as taught by Kavoori."

However, Applicant submits that even assuming, as the Examiner suggests, that one of ordinary skill in the art had a "desire to indicate the scheduling of resources as taught by Kavoori," there is nothing in Kavoori to even suggest to a person of ordinary skill in the art to reason that because Kavoori uses a "timeline graph" in FIG. 1C to illustrate his invention, it is desirable to use "couplings" or "associations" of task elements to attachment locations on a

resource element to specify an execution ordering constraint on the tasks associated with the task elements to define an order in which the tasks are to be executed.

Independent claim 25

No proper combination of Bayer and Kavoori teaches or suggests at least "linking elements coupling the task elements to the resource element at a plurality of attachment locations, in a time-ordered sequence defining an execution ordering constraint on the tasks associated with the task elements to define an order in which the tasks are to be executed," as recited by amended claim 25.

The Examiner indicates that claim 25 is rejected for the same reasons as claim 1 (Office Action page 6). While claim 25 does recite some features recited by claim 1 such as "linking elements coupling the task elements to the resource element at the plurality of attachment locations," and "an execution ordering constraint on the tasks associated with the task elements to define an order in which the tasks are to be executed," Applicant points out that the claim 25 additionally recites "linking elements coupling the task elements to the resource element at a plurality of attachment locations, in a time-ordered sequence."

Dependent claims 4, 15, and 21

These dependent claims are properly dependent on a respective one of the independent claims, and are thus allowable therewith.

Additionally, these claims recite that "the resource element comprises a timeline with the attachment locations being associated with points on the timeline."

In the interview (and in a question submitted in writing) Applicant's representative asked "even assuming, as the Examiner suggests, that one of ordinary skill in the art had a 'desire to indicate the scheduling of resources as taught by Kavoori,' what is the proposed reasoning that a person of ordinary skill in the art would have gone through to say that because Kavoori uses a 'timeline graph' in FIG. 1C to illustrate his invention, it is desirable to use a timeline as a

resource element in a specification of a graphical representation of task dependency in a computer system? For example, does Kavoori suggest this use of a timeline, and if so where?"

The Examiner offered no additional reasoning that a person of ordinary skill in the art would have used to arrive at the claimed subject matter, but indicated that he would reconsider whether or not to maintain the rejection of these claims.

Dependent Claims 26, 28, 30, and 32

These dependent claims are properly dependent on a respective one of the independent claims, and are thus allowable therewith.

Additionally, these claims recite that "relative positions of the plurality of attachment locations on the resource element define the ordering constraint."

In the interview (and in a question submitted in writing) Applicant's representative asked "even assuming, as the Examiner suggests, that one of ordinary skill in the art had a 'desire to define a static scheduling policy to reduce the overhead associated with dynamic scheduling,' what is the proposed reasoning that a person of ordinary skill in the art would have gone through to arrive at using 'relative positions of the plurality of attachment locations on the resource element define the ordering constraint'?"

The Examiner offered no additional reasoning that a person of ordinary skill in the art would have used to arrive at the claimed subject matter, but indicated that he would reconsider whether or not to maintain the rejection of these claims.

Remaining dependent claims

The remaining dependent claims are properly dependent on a respective one of the independent claims, and are thus allowable therewith. These dependent claims add one or more further limitations, which are not presently relied upon to establish patentability. For that reason, and not because Applicant agrees with the Examiner, no rebuttal is offered to the Examiner's reasons for rejecting the remaining dependent claims.

Applicant : Inchingolo et al.
Serial No. : 10/796,612
Filed : March 8, 2004
Page : 13 of 13

Attorney's Docket No.: 07470-072001

$60 for the Petition for Extension of Time fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account Authorization. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 07470-072001.

Respectfully submitted,

Date: July 2, 2008

/Elliott J. Mason, III/
Elliott J. Mason, III Reg. No. 56,569

Fish & Richardson P.C.
Telephone: (617) 542-5070
Facsimile: (877) 769-7945

21961834